



User: DoxAdmin - DOE-Directives Administrator - Comments Report

Document type: DOE-Directives

Document: DOE O 475.2B, Identifying Classified Information, Review and Comment

Overall Comments**Suggested comment from Debra Smiley for Bonneville Power Administration**This package represents the official, consolidated comments of **N/A - Comment package automatically submitted.**

No Comment

Response:*Accept***Suggested comment from Marilyn Jacobs for Headquarters EM**

No Comment.

per Ty Sanders of EM-44.

Response:*Accept***Included comments:****Bobby Williams for Office of River Protection**

No Comment

Response:*Accept***Andrea Cooper for Carlsbad Field Office**

No Comment

Response:*Accept***Jodi Dawson for Richland Operations Office**

No Comment

Response:*Accept***Bruce Way for Savannah River Site - Savannah River Nuclear Solutions (SRNS) EM**

No Comment

Response:*Accept***Suggested comment from Steve Duarte for Headquarters GC****Included comments:****SME Stephen.Smith@hq.doe.gov**

No Comment

Response:*Accept***SME JoAnn.Williams@hq.doe.gov**

Proof reader needs to read document carefully. Words are run together. Lines aren't always spaced right. Need consistency on CFR ciites. Done 3 different ways here. Make sure consistency in caps as in words in titles,

Response:*Accept***Suggested comment from Bill Schwartz for Headquarters HG**This package represents the official, consolidated comments of **Poli A. Marmolejos, Director**

No Comment

Response:*Accept***Suggested comment from Emily Jackson for Headquarters LM**

No Comment

Response:*Accept***Suggested comment from Cathy Tullis for Headquarters NA**This package represents the official, consolidated comments of **Cathy Tullis****Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

Throughout - Add page numbers to all pages; Attachments are numbered on odd pages only -- Difficult to track through the document

Throughout - Add examples of "stamps" be used -- Several sections reference language to be used in document marking. It appears that the intent is that standard, prescribed "stamps" be used.

Throughout - Pagination and line spacing issues appeared in my review copy -- Odd spacing and pagination detract from usefulness of the Order

Response:

Accept Formatting will be fixed prior to publication

Suggested comment from PK Niyogi for Headquarters NE

No Comment

Response:

Accept

Suggested comment from Sharon Edge-Harley for Headquarters AU (formerly HS)

This package represents the official, consolidated comments of **Matthew Moury, Acting Associate Under Secretary** and **Stephen Kirchhoff, Acting Deputy Associate Under Secretary**

No Comment

Response:

Accept

Suggested comment from Rauland Sharp for Headquarters HC

No Comment

Response:

Accept

Suggested comment from John Wall for Headquarters CF

No Comment

Response:

Accept

Suggested comment from Sharon Edge-Harley for Headquarters IEA (Independent Enterprise Assessment)

This package represents the official, consolidated comments of **William A. Eckroade, Deputy Director for Independent Enterprise Assessments** and **Lesley A. Gasperow, Deputy Director for Corporate Functions**

No Comment

Response:

Accept

1-2. PURPOSE; CANCELLATION

3. APPLICABILITY

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

pl, 3.a - Correct "outlined in Intelligence Community (IC) Directive (ICD) and other ICDs"

Response:

Accept

4. REQUIREMENTS

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Henry Van Dyke for NA-General Counsel

Documents and material must be reviewed, classified, declassified, downgraded, and upgraded as specified in Attachment 4, *Classification/Declassification Review Requirements*.

Needs to be italicized throughout for consistency.

Response:

Accept

Suggested comment from Jennifer Kelley for Headquarters SC

Paragraph 4i. Suggest adding to last sentence in 4i. (The guidance must satisfy the requirements of Attachment 3, Classification Guidance" the following " or Attachment 4, Classification/Declassification Review Requirements." as there are references to source documents in Attachment 4 - 1b(1) and 1b(3)

Response:

Accept

5. RESPONSIBILITIES

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Henry Van Dyke for NA-General Counsel

Under 5.a.(2), expand definition of "as necessary."

Response:

Reject Per meeting with NNSA GC is OK to retain as is.

Major comment from Cathy Tullis for Headquarters NA

Included comments:**Henry Van Dyke for NA-General Counsel**

These responsibilities should be modified to recognize the requirement to "coordinate" with NNSA where NNSA authorities, through statute or delegation, are involved.

Response:

Accept Added requirement for Director, Office of Classification to coordinate actions involving information under NNSA cognizance with NNSA. Met with NNSA GC and added other specific coordinations, as recommended.

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

5. b. (3) and (4) - Include NNSA coordination on the listed decisions -- Prior edition of the Order contained the requirement that NNSA coordinate on such decisions when NNSA information was involved

Response:

Accept Added requirement for Director, Office of Classification to coordinate actions involving information under NNSA cognizance with NNSA. Met with NNSA GC and added other specific coordinations, as recommended.

Suggested comment from Steve Duarte for Headquarters GC**Included comments:****SME JoAnn.Williams@hq.doe.gov**

c. (22) cite should be 32 CFR part 2001.90 "part" is left out

Response:

Accept with Modifications For references that refer to sections used §

SME JoAnn.Williams@hq.doe.gov

spacing in lines of c.1 is wrong

c.2 cite should be 10 CFR part 1045, not part1045 run together

Response:

Accept

Major comment from Cathy Tullis for Headquarters NA**Included comments:****Henry Van Dyke for NA-General Counsel**

These responsibilities should be modified to recognize the requirement to "coordinate" with NNSA where NNSA authorities, through statute or delegation, are involved.

Response:

Accept Added requirement for Director, Office of Classification to coordinate actions involving information under NNSA cognizance with NNSA. Met with NNSA GC and added other specific coordinations, as recommended.

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

5. c. (4) and (5) - Specifically call out NNSA/DNS rather than (or as well as) "Program Office" -- Prior edition of the Order contained the requirement that NNSA coordinate on such decisions when NNSA information was involved

Response:

Accept with Modifications Added requirement for Director, Office of Classification to coordinate actions involving information under NNSA cognizance with NNSA.

Suggested comment from Jennifer Kelley for Headquarters SC

Paragraph 5c (15). The Federal classification officer should appoint the contractor COs as derivative classifiers. If the Director of Classification appoints the contractor CO as DCs, then the contractor CO will bypass the Federal COs and go directly to the Director with questions. If confuses the chain-of-command.

Response:

Reject The Director, Office of Classification or the NNSA CO already appoints the contractor CO as the CO and DD. Appointing the CO as a DC at the same time streamlines the process and simplifies the function of the Federal CO. The authority chain is already separate from the line management chain. The Federal CO must nominate the contractor CO for all his or her authorities so is not being bypassed.

Suggested comment from Steve Duarte for Headquarters GC**Included comments:****SME christina.pak@hq.doe.gov**

In paragraph (4), space required after "E.O. 13526."

Response:

Accept

Suggested comment from Steve Duarte for Headquarters GC**Included comments:****SME JoAnn.Williams@hq.doe.gov**

in e (1) what do the abbreviations stand for ?

Response:

Reject Acronyms are defined in first appearance (page 1 - 3a.(3))

SME JoAnn.Williams@hq.doe.gov

this whole document needs to be read carefully for consistency of cites some references to the CFR have "part" before the number others do not My view is that it should read xx CFR part yyyy

Response:

Accept

SME christina.pak@hq.doe.gov

In paragraph (4), it should either be, "the Director of National Intelligence" or "Director, Office of the Director of National Intelligence."

Response:

Accept

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

p.7, e. (5) - (e.g., RD, TFNI, UCNI) -- UCNI should be explicitly called out as a possibility

Response:

Reject Unclassified Controlled Nuclear Information is unclassified and is therefore, outside the scope of this order.

Suggested comment from Jennifer Kelley for Headquarters SC

Paragraph 5e(7). Please clarify if the cognizant CO means the Federal CO or the Contractor CO. It also need to make it clear to the FIEs that local Fed and Contractor COs have jurisdiction ver non-SCI information. They tend to ignore the local COs citing need-to-know issues. Clarify that local Fed and Contractor CO have need to know.

Response:

Reject Could be either Federal or contractor, depending on who appoints the DCs. CO need to know (and other iissues) were addressed in a recent memo from AU to IN.

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

p. 8 (7) Why are field CI offices not evaluated, only the intel elements?

Response:

Accept Reworded to move Field CI Offices are evaluated in accordance with Attachment 5.

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

P. 9, (12) "Classification Officer, as appropriate, is provided -- Add comma

Response:

Accept

Vanessa Scott for NA-70 Defense Nuclear Security

5. g. (1) - Delete the phrase "as well as a commitment to openness" -- While the commitment to openness is generally a good thing, it is somewhat of a political pendulum. Requiring an Order change at the political whims of an administration seems like a fundamentally bad idea

5. g. (14) and (15) - Add the language of 5. g. (15) to the "Requirements" section (4. h.) -- The language of 5. g. (14) is also included in the "Requirements" section (4. h.). It would seem appropriate to include 5. g. (15) as a requirement also

Response:

Accept with Modifications

DOE's commitment is committed to openness regardless of administration. However, we agree that openness should not be a requirement in this order. Reworded to ensure the identification of classified information through the accurate and accountable application of classification standards.

Accepted addition of language of 5.g.(15)

Major comment from Jennifer Kelley for Headquarters SC

Paragraph 5g(9). Please clarify who is authorized to be appointed as a Designee. Can the Director, Office of Classification, designate a contractor CO as the responsible person to ensure classification guidance is developed for all programs, including SCI/SAP, which are under DOE purview?

Response:

Reject Contacted the Office of Science to clarify the comment and explain the desination is for the Director Office of Classificatin to designate an SME to review the guidance developed. Science does not require revision of the requirement.

Suggested comment from Jennifer Kelley for Headquarters SC

Paragraph 5g(6). This requirement needs more clarification as written or combined with paragraph 5g(7). See comment for paragraph 5g(7).

Response:

Reject It is longstanding policy for the CO to review for public release. Reviews for public release require additional expertise because of the higher risk to national security if classified information is released into the public domain and the fact it is difficult to mitigate a compromise if the information was publicly released. Most DCs do not have the expertise to review for public release. This review authority can be delegated, if the CO determines there is a need to do so and a Dc has sufficient expertise.

Paragraph 5g(7). This requirement and the one above 5g(6) could be combined. Not sure why any mention of "intended for public release" requires a review from the Classification Officer rather than just a derivative classifier. Reviews should not be dependent on whether it is for public release, but for proper determinations

regardless of intended audience. Documents are reviewed for classification so the holder of the information knows whether he/she can share it with another person with appropriate need-to-know and appropriate clearance, not just the "public."

This is also unclear in Attachment 2, page 7, under 2e. Derivative Classifier, (6) Authority Limitations. AND Attachment 4, Page 1, under paragraph 1. CLASSIFICATION, a. Required Classification Reviews, (4).

Suggestion: (combine 5g(6) and 5g(7) into paragraph below.

(6) Ensures that documents (including legacy) in classified subject areas that are intended for release outside the organization (e.g., another DOE facility, for a public webpage, for news organizations, including documents provided to or testimony given to Congress), are coordinated with the appropriate Classification Office for review prior to release. (See Attachment 4, *Classification/Declassification Review Requirements*.)

Attachment 9 DEFINITIONS - Add New definition (to support above)

Legacy Document. A document that has not been widely disseminated, that pre-dates the establishment of certain United States regulations, International Regimes, Treaties, including current unclassified controlled categories such as Export Controlled Information (ECI), Unclassified Controlled Nuclear Information (UCNI), Official Use Only (OUO), and information as defined in E.O. 13556 Controlled Unclassified Information (CUI); and requires an evaluation for review for sensitive (classified/CUI) information prior to public release. Legacy documents typically reside in central collections/files and are typically hardcopy or microform (e.g. microfiche, etc.).

Response:

Reject It is longstanding policy for the CO to review for public release. Reviews for public release require additional expertise because of the higher risk to national security if classified information is released into the public domain. Most DCs do not have the expertise to review for public release. This review authority can be delegated to as many DCs as necessary if the CO determines there is a need to do so and a DC has sufficient expertise.

Major comment from Cathy Tullis for Headquarters NA

Included comments:

Henry Van Dyke for NA-General Counsel

Approval requirements in this section need to recognize for NNSA elements it is a collaboration, not "approval."

Response:

Accept Added requirement for Director, Office of Classification to coordinate actions involving information under NNSA cognizance with NNSA. Met with NNSA GC and added other specific coordinations, as recommended.

Major comment from Cathy Tullis for Headquarters NA

Included comments:

Henry Van Dyke for NA-General Counsel

Approval requirements in this section need to recognize for NNSA elements it is a collaboration, not "approval."

Response:

Accept Added requirement for Director, Office of Classification to coordinate actions involving information under NNSA cognizance with NNSA. Met with NNSA GC and added other specific coordinations, as recommended.

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

p.11 (10) "... appropriate and current classification guidance available." -- The DC/DD should be responsible for updating the guidance.

Response:

Reject The CO is ultimately responsible because they must distribute the guidance. If the DC/DD is not notified of the update or does not receive the update, they should not be held accountable.

Suggested comment from Jennifer Kelley for Headquarters SC

Paragraph 5i(8): This is a significant increase in workload if IN's expectation is for the Field (Fed) CO to perform this function. Additional resources will be required if this is the case.

Response:

Reject This requirement only applies to DCs that the CO appoints, so the workload should not be significant.

Paragraphs 5i(17) and 5i(18): Please clarify if the work for others being referred to is that which is only performed by the Field Element (i.e., Feds) or if it refers to all work for others that is conducted by the M&O contractors under the Field element.

Response:

Reject The Order applies only the the Federal elements. The CRD applies to the contractors.

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Henry Van Dyke for NA-General Counsel

- (2) Ensures the satisfactory performance of the Headquarters element classification program. Conducts self-assessments and classification decision reviews and submits appropriate reports. Maintains operational awareness of the classification issues in his or her Headquarters element in accordance with Attachment 5, *Classification Program Evaluations*.

This should be split into two items ("ensures..." and "Maintains....")

Response:

Accept

Vanessa Scott for NA-70 Defense Nuclear Security

p.13 (4) "... appropriate and current classification guidance available." -- The DC/DD should be responsible for updating the guidance.

Response:

Reject The CO is ultimately responsible because they must distribute the guidance. If the DC/DD is not notified of the update or does not receive the update, they should not be held accountable.

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

5. l. and m. - Reverse the positions of these two paragraphs

Response:

Reject the organization is consistent with attachment 2

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

P.14, n. (2) Remove "or potentially classified at a higher classification level or more restrictive category" Not a consideration for a new originated document.

Response:

Accept with Modifications

broke into 2 separate paragraphs - ensure that every document that employee originates is reviewed by DC and ensure that each document that an employee possesses that he or she believes is misclassified is reviewed by a DC or DD, as appropriate.

Suggested comment from Jennifer Kelley for Headquarters SC

Paragraph 5n(1). A Derivative Classifier must be "delegated" such review authority? A DC or CO may not know if the document being reviewed may be publicly released. Their responsibility is to determine if any classified information is in the document or material. The holder of the document makes decisions on whether to share appropriately marked documents with another person with an appropriate clearance and need-to-know, or provide for unclassified use (including public release).

Assume the new CUI Order will also cover the "public release" issue.

Suggested rewrite:

Paragraph 5n(1) Ensure that each document or material that the employee originates, modifies, or possesses in classified subject area intended for further distribution is reviewed by a Derivative Classifier.

Response:

Reject It is longstanding policy for the CO to review for public release. Reviews for public release require additional expertise because of the higher risk to national security if classified information is released into the public domain and the fact it is difficult to mitigate a compromise if the information was publicly released. Most DCs do not have the expertise to review for public release. This review authority can be delegated, if the CO determines there is a need to do so and a Dc has sufficient expertise.

6-8. REFERENCES; DEFINITIONS; CONTACT**Suggested comment from Steve Duarte for Headquarters GC****Included comments:****SME christina.pak@hq.doe.gov**

"Public Law" should be spelled out in paragraph "a" instead of "b".

Response:

Accept

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Henry Van Dyke for NA-General Counsel**

- b. Public Law (P.L.) 106-65 (**Title XXXII, as amended**), National Nuclear Security Administration Act, ~~Title XXXII as amended~~. This statute establishes a separately organized agency within the Department of Energy.

Response:

Accept

Vanessa Scott for NA-70 Defense Nuclear Security

P. 15, 6. a - "This statute provides the legal bases for protecting RD, FRD, and TFNI." -- "Protecting" is a boader than "identifying"

Response:

Accept with Modifications changed to "identifying and protecting"

Vanessa Scott for NA-70 Defense Nuclear Security

6. a. and b. - Reverse the positions of these two paragraphs -- If "P.L." is to be used to denote "Public Law" it should be defined the first time it appears

Response:

Accept with Modifications Spelled out in a

Suggested comment from Steve Duarte for Headquarters GC**Included comments:****SME JoAnn.Williams@hq.doe.gov**

same problem document needs to be consistent on the CFR cites check to see if directives manager wants it to be "part" or Part" In this section "P" is in caps but not in earlier sections

Response:

Accept Reviewed order to be consistent with Federal guidelines for citing CFRs

Suggested comment from Steve Duarte for Headquarters GC**Included comments:**

SME JoAnn.Williams@hq.doe.gov
in g. above all words in EO titles should be caps

Response:
Accept

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:**

Vanessa Scott for NA-70 Defense Nuclear Security

P. 15, 6 (g) - *United States Intelligence Activities*

Response:
Accept

Suggested comment from Steve Duarte for Headquarters GC**Included comments:**

SME christina.pak@hq.doe.gov
As to paragraph "I": change to "This Order contains requirements and responsibilities for the protection and control of classified matter."

Response:
Accept

ATTACHMENT 1. CONTRACTOR REQUIREMENTS DOCUMENT**Suggested comment from Cathy Tullis for Headquarters NA****Included comments:**

Vanessa Scott for NA-70 Defense Nuclear Security

2nd paragraph - "to ensure the [contractor's or subcontractor's] compliance - Which is correct here, or are both necessary?"

Response:
Accept with Modifications Changed to incorporate language from the current directives template. Regardless of the performer of the work, the contractor is responsible for complying with the requirements of this CRD. The contractor is responsible for flowing down the requirements of this CRD to subcontractors at any tier to the extent necessary to ensure the contractor's compliance with the requirements.

1. REQUIREMENTS**Suggested comment from Steve Duarte for Headquarters GC****Included comments:**

SME james.jurich@hq.doe.gov
For clarity and in recognition that equivalencies and exemptions are different categories, change "equivilencies and exemptions to "equivilencies or exemptions".

Response:
Accept with Modifications Change to comply with current template - now equivalencies/exemptions

SME james.jurich@hq.doe.gov
For clarity and in recognition that equivalencies and exemptions are different categories, change "equivilencies and exemptions to "equivilencies or exemptions". Also, for clarity change sentence to read: "Each contractor requesting equivilencies or exemptions" to this Order must do so from the Director, Office of Classification, for DOE (not including NNSA) or the NNSA Classification Officer for NNSA."

Response:
Accept with Modifications Changed to comply with template "equivelencies/exemptions". Incorporated NNSA

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:**

SME burnsrl@nv.doe.gov

CHANGE: work performed by the contractor or subcontractors, the contractor

TO: work performed by the contractor or *their* subcontractors, the contractor

Response:
Accept

2. RESPONSIBILITIES OF CONTRACTOR CLASSIFICATION OFFICER**Major comment from Cathy Tullis for Headquarters NA****Included comments:**

Henry Van Dyke for NA-General Counsel

These responsibilities should be modified to recognize the requirement to "coordinate" with NNSA where NNSA authorities, through statute or delegation, are involved.

Response:
Accept Added requirement for Director, Office of Classification to coordinate actions involving information under NNSA cognizance with NNSA. Met with NNSA GC and added other specific coordinations, as recommended.

Major comment from Cathy Tullis for Headquarters NA**Included comments:**

Henry Van Dyke for NA-General Counsel

These responsibilities should be modified to recognize the requirement to "coordinate" with NNSA where NNSA authorities, through statute or delegation, are

involved.

Response:

Accept Added requirement for Director, Office of Classification to coordinate actions involving information under NNSA cognizance with NNSA. Met with NNSA GC and added other specific coordinations, as recommended.

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

n - "Evaluates the impact of new or revised DOE Classification guidance upon existing ..." - Less wordy

Response:

Reject It is important to make the distinction that the new or revised guidance being compared to existing guidance is issued by the Office of Classification.

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

SME burnsrl@nv.doe.gov

Challenges from NNSA Field CO/Contractor CO should be routed THROUGH the NNSA CO.

Response:

Accept with Modifications A challenge may be routed through the channels, but must not be required to do so. However, added requirement for Director, office of Classification to coordinate challenges and declassification proposals with cognizant CO, PCO, CR, as appropriate.

ATTACHMENT 2. APPOINTMENT OF CLASSIFICATION OFFICIALS

1. ROLE OF CLASSIFICATION OFFICIALS

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

Att 2, 1. - Return the table that outlined the roles of various officials -- The table provided an overview in a convenient format

Response:

Reject Table was not an accurate quick reference for all positions and was incomplete. Determined to remove the table because when expanded for accuracy and completion, it was too large.

2. REQUIREMENTS FOR APPOINTING CLASSIFICATION OFFICIALS

Suggested comment from Jennifer Kelley for Headquarters SC

Paragraph 2a. The PCOs for SC reside in Oak Ridge and Chicago as part of the Integrated Support Center. It is very difficult to have access to Senior management from the Field. The PCO should be physically located at or near the HQ element.

Response:

Reject Appointment is by line management who determines the PCO's ability to perform their duties at their location.

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

6 - "if he or she cannot or does not properly perform his or her responsibilities or does not..." == To also capture when PCO leaves the program

Response:

Reject this is already addressed under cannot perform duties - if the PCO leaves the program he or she cannot perform their duties.

Major comment from Cathy Tullis for Headquarters NA

Included comments:

Henry Van Dyke for NA-General Counsel

Provision d.(d) contradicts the authority provided to the Under Secretary for Nuclear Security in the Secretary's delegation Order No. 00-003.00C, Section 1.1.) Suggest adding ", unless otherwise provided for by statute or Secretarial Delegation."

Response:

Accept with Modifications Per meeting with NNSA added under b - unless otherwise provided for by Secretarial Delegation

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

Att 2, 2. d. (1) (a) -Include some actual technical requirements similar to those of 2. d. (2) (a). -- Top Secret Original Classifier requirements are less stringent than those of a Secret Original Classifier. I'm not certain that this makes any sense.

Response:

Reject The requirements for TS and S/C are different because TS OCs are delegated by the Secretary by position, whereas S and C are given authority by person.

Vanessa Scott for NA-70 Defense Nuclear Security

Att 2, 2. d. (1) (c) - Rewrite first sentence as two: "A Top Secret Original Classifier must complete...prior to using the authority. Training must be repeated at least once every calendar year thereafter." -- Sentence as written is long and awkward

Response:

Accept

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:**Vanessa Scott for NA-70 Defense Nuclear Security**

6 - If they cannot or do not properly perform their responsibilities or do not complete -- to also capture when HCR/AHCR leaves the program.

Response:

Reject

this is already addressed under cannot perform duties - if the PCO leaves the program he or she cannot perform their duties.

Suggested comment from Jennifer Kelley for Headquarters SC

Paragraph 2e.(6) Would this be better addressed in the OUO (upcoming CUI) Order? A DC can determine a document is "unclassified" (classification review), but "Public release" is not the scope of this Order once a proper classification determination is made.

Response:

Reject This is not a complete review for public release, only to ensure classified information is not released.

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Henry Van Dyke for NA-General Counsel**

(1) Qualifications. A Derivative Declassifier must have a relevant degree or work experience ~~as validated by the appointing official~~, competency in the subject areas in which the authority will be used, and familiarity with DOE classification and declassification policy, procedures, and guidance, **as validated by the appointing official**.

Response:

Accept

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

b -

Field Element Staff. The immediate supervisor of the staff submits the information..." -- Contractors or consultants may be working in Federal field offices

Response:

Accept with Modifications

Agree was not clear - Renamed the section Field Element or Contractor Organizations. Revised 2 paragraphs - Field Element (specifying the immediate supervisor of the Federal or contractor employee) and Contractor Organizations with Classification Officers

ATTACHMENT 3, CLASSIFICATION GUIDANCE**Suggested comment from Cathy Tullis for Headquarters NA****Included comments:****SME burnsrl@nv.doe.gov**

Recommend that use of a Source Document be authorized in writing in the appointment document; at least for DC level.

Response:

Reject

The revision is partly in response to the IG report regarding NSI email - to allow DCs to classify their own email (the string may contain information outside of their jurisdiction or subject area that they must use to determine the overall classification of the email). It is also and certain programs/office that receive documents with information outside their jurisdiction or subject area classified by others that must be used for a document they originate (e.g., security incident investigations, GC reports). The CO always has the authority to address the use of source documents in appointment letters.

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

Attach 3; 2.c. - Recommend clarifying this requirement to identify who is responsible for distributing the guidance after receipt from whom. -- Assigning these responsibilities will allow resolution of apparent on-going guidance distribution compliance issues.

Response:

Accept The Office of Classification will distribute all new or revised classification guidance to the appropriate Classification Officers. The Classification Officer must distribute the new or revised classification guidance to the appropriate Derivative Classifiers and Derivative Declassifiers within 60 calendar days of receipt of the approved guidance.

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

"Each classification guide must receive a cover-to-cover review no longer than every 5 years."

Response:

Accept with Modifications Each classification guide must receive a cover-to-cover review at least once every 5 years

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****SME burnsrl@nv.doe.gov**

As a real world case we had OGA guidance that partially was appropriate and not conflicting with DOE guidance. We gave partial approval to certain sections for non-RD related information but had to obtain HQ permission for this approval. This Order could capture and codify that process and allow a CO to give portion approval to OGA guidance always with the priority of no conflicts with DOE guidance and protection of DOE equities.

Response:

Reject

The local CO can approve OGA NSI guidance for work for other projects without approval from HQ.

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

1 - "Work that involves RD/FRD/TFNL. ...if the work involves RD/FRD/TFNI

Response:

Accept

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

6 - funded by DOE and other U.S. Government organizations -- May involve more than one other agency.

Response:

Accept

Major comment from Cathy Tullis for Headquarters NA

Included comments:

Henry Van Dyke for NA-General Counsel

Approval requirement in provision 7.b. should apply only to DOE elements, and not NNSA elements.

Response:

Accept with Modifications Per discussion with NNSA, remove the words "for approval."

ATTACHMENT 4. CLASSIFICATION/DECLASSIFICATION REVIEW REQUIREMENTS

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

Throughout this Attachment, guidance is given as to what to enter on what line of a given marking block, but no reference is given to where these marking blocks are prescribed / described. Recommend adding such reference(s).

Response:

Reject

Specific directions on markings are found in DOE Order 471.6, Admin Chng 1, Information Security and the CMPC Marking Resource.

1. CLASSIFICATION

Suggested comment from Jennifer Kelley for Headquarters SC

Paragraphs 1a(1), 1a(2), and 1a(3) of this Attachment require a "DC review," which could be publicly released by the person seeking the review. Why does the paragraph 1a(4) require a CO review or "delegated DC" review? The "public" determination is not a classification issue, but an ODO/CUI issue. Even CG-SS-4 indicates that an ODO decision (not public) is under the Program or Support Office for which they have cognizance of the information. This seems inconsistent and perhaps not within the scope of this Order but rather more applicable to the new upcoming CUI Order.

Suggestion:

A document or material generated in a classified subject area and intended for public release (e.g., for a webpage, for Congress) must be reviewed and approved consistent with applicable laws, regulations, and DOE directives, by the cognizant official responsible for the document or material, once a derivative classifier has reviewed the information and determined it to be unclassified.

Response:

Reject It is longstanding policy for the CO to review for public release. Reviews for public release require additional expertise because of the higher risk to national security if classified information is released into the public domain and the greater difficulty in mitigating the compromise. Most DCs do not have the expertise to review for public release. This review authority can be delegated to as many DCs as necessary if the CO determines there is a need to do so and a DC has sufficient expertise.

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

SME burnsrl@nv.doe.gov

ADD TO END: That release must be performed by a Classification Officer or other Classification Official with Classification Officer delegated authority for public release.

Response:

Accept with Modifications That review must be performed in accordance with 1a(4).

Vanessa Scott for NA-70 Defense Nuclear Security

Att 4, 1. a. (6) - Combine this entry into paragraph 1. a. (5) of the attachment -- Both paragraphs deal with extractions from classified documents

Response:

Accept

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

Att 4, 1. a. (7) (c) - Rewrite the paragraph to improve its understandability; perhaps an "or" should be placed between "category" and "is" on the third line. -- The paragraph seems to imply that for reports that are adequately similar, the CO can declare their classification state based on prior review. This seems to be a prudent course of action, however, I was not sure that this is the intent of the paragraph.

Response:

Accept

Henry Van Dyke for NA-General Counsel

"system high" should be defined.

Response:

Accept reworded to "at the highest level and category of information resident on the system"

Vanessa Scott for NA-70 Defense Nuclear Security

7 - Printed output from a classified information system

c - "...the output is consistently classified at a particular level and category or is unclassified."

Response:

Accept

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

b. (2) - "...using classification guidance applicable to comparable RD or FRD or by using a source document."

Add "If information is classified RD/FRD in canceled/obsolete guide but no U topic currently exists, send to Office of Classification via CO."

Response:

Accept with Modifications

Accepted first comment. For second comment, moved use of canceled or obsolete guides to RD/FRD Basis for Determination. Second situation is covered under Attachment 3, inconsistent or no guidance.

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

Att 4, 1. b. (3) - Justify why this applies to email or correct to cover the actual intent -- It is not clear why email is singled out in the paragraph: if it is legitimately so, some explanation is in order.

Att 4, 1. b. (4) - Provide any restrictions on the use of such U topics. -- It is not clear that the paragraph applies to all categories or just RD/FRD, which is prohibited by law from reclassification.

Response:

Reject

This was added in response to the IG report regarding NSI email not being marked properly - to permit DCs to respond to email strings that contain information outside their jurisdiction or subject areas.

Topics may be used to make unclassified determinations - which would not be reclassification.

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

Att 4, 1. f. (3) - Delete the paragraph. -- It is not clear that this requirement is unique to FGI. If not there seems to be no reason to include it here

Response:

Reject paragraph is to explain what to do if FGI does not have declass instructions (which is very likely).

Vanessa Scott for NA-70 Defense Nuclear Security

p.42, f. (1) - Does a FGI document have a front-page classification block? How to fill CLASSIFIED BY:?

Response:

Reject Marking FGI is address in DOE Order 471.6, Admin Chng 1, Information Security. If it is reviewed by a DC it must have the classification authority block information as any document. The declassified on line was singled out because FGI documents will not likely have declassification instructions.

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Vanessa Scott for NA-70 Defense Nuclear Security

Att 4, 1. g. - Include instructions that in the case of conflicting guidance the information should be protected at the more restrictive level pending CO review. - Prior versions included such a reminder.

Response:

Accept

2. DECLASSIFICATION

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:

Henry Van Dyke for NA-General Counsel

Provision 2.a.(1), should include language excepting as provided in 2.a.(5) below.

Modify (4) as follows:

(4) A document **being prepared for declassification that is** referred to DOE by another Government agency **and** that is marked as containing or identified as potentially containing RD, FRD, or TFNI must be reviewed as **described** in paragraph 2.a.(1).

Response:

Accept with Modifications A document referred to DOE for declassification review by another Government agency...

Suggested comment from Cathy Tullis for Headquarters NA

Included comments:**Vanessa Scott for NA-70 Defense Nuclear Security**

Att 4, 2, d - Add language that clarifies that notifications are not necessary for sanitized versions of documents. -- The paragraph doesn't seem to exclude redacted documents from the notification requirement: there seems no value in such notification.

Response:

Reject It is not necessary to address redacted versions. Redacted versions are not the same document. When the information is redacted, the document has no impact on the original document containing the information.

3. DOWNGRADING AND UPGRADING**Suggested comment from Cathy Tullis for Headquarters NA****Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

Attach, 4, 3.c. - Recommend clarifying that the distribution of an upgrade notice must take into account the clearance level of the recipient(s). -- It is possible some holders may not have the proper access authorization for the upgraded document, therefore they could not directly receive such an upgrade notice.

Response:

Accept

4. CHALLENGES**Major comment from Cathy Tullis for Headquarters NA****Included comments:****Henry Van Dyke for NA-General Counsel**

- (b) If a challenger is not satisfied with the response from the Director, Office of Classification, the employee may appeal to the Associate Under Secretary for Environment, Health, Safety and Security.

Does not address the NNSA Act concerns.

Response:

Accept Added coordination with the NNSA Chief of DNS as requirement for appeal challenges.

Major comment from Cathy Tullis for Headquarters NA**Included comments:****Henry Van Dyke for NA-General Counsel**

Does not address the NNSA Act concerns

Response:

Accept Added coordination with the NNSA Chief of DNS as requirement for appeal challenges.

Suggested comment from Jennifer Kelley for Headquarters SC

Paragraph 4. For Challenges: suggest that "Employees are encouraged to resolve classification challenges locally *through their local Federal Classification Officer*. Rationale is that it would be very useful information for the Federal classification officer to know in order to track possible trends with classification issues. You might also want to require the local classification officer to assist in preparing a challenge of classified information as they should have the historical knowledge as to why something has always been considered classified. Many times odd information is classified due to unintended consequences of past declassifications or compromises.

Clarification should be provided on the difference between a classification challenge and a declassification request. Declassification proposals have specific criteria that must be assessed under 10 CFR 1045. There should be a standard form developed that requires certain information on the challenger's reasoning for the request so as to minimize nuisance requests.

Response:

Reject

requirement as written encourages resolution at the local level. Intent is to give sites flexibility and the Site can choose to have CO assist. However, a challenger should be allowed to formally challenge to the OC at any time (they may not be comfortable discussing the information with the DC or the CO, or may not be satisfied with informal discussions with them.)

Reworded declassification proposal to state when an employee believes information no longer requires protection.

5. DECLASSIFICATION PROPOSALS**Suggested comment from Cathy Tullis for Headquarters NA****Included comments:****SME burnsrl@nv.doe.gov**

I believe the following minor change makes for an improved process with local awareness.

...proposals will be submitted through the proposer's CO/PCO to the Director.....

This way if the proposal is already under consideration; has already occurred, etc., the employee is immediately informed. It also avoids duplication of proposals.

Response:

Reject challenger should be allowed to formally challenge to the OC at any time (they may not be comfortable discussing the information with the DC or the CO, or may not be satisfied with informal discussions with them.) However, added a requirement for the Director, Office of Classification to coordinate challenges and declass proposals with the CO/PCO/CR.

6. MISCLASSIFICATION OF INFORMATION, DOCUMENTS, OR MATERIAL**Suggested comment from Cathy Tullis for Headquarters NA****Included comments:**

Vanessa Scott for NA-70 Defense Nuclear Security

p.49, 6. (c) - Add "DOE recognizes that a very occasional human error may be made by a DC or DD, and such a rare unintentional lapse will not result in a penalty."

Response:

Reject

Current language is more appropriate.

ATTACHMENT 5. CLASSIFICATION PROGRAM EVALUATIONS**Suggested comment from Cathy Tullis for Headquarters NA****Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

Att 5, 1. a. (1) - Clarify the intent of 2-year and 4-year review cycles -- It was difficult to determine the distinction among the various reviews and parties

Attach. 5, 1.a.(1)b. - Revise to add the words missing from this sentence. It makes no sense as written. -- Technical edit.

Response:

Accept

Simplified section for clarity

Vanessa Scott for NA-70 Defense Nuclear Security

Att 5, 1. a. (1) a. 3 - Delete the second (or first) "evaluations" -- typo.

Response:

Accept

Suggested comment from Jennifer Kelley for Headquarters SC

Paragraph 1. There is a significant overlap between the Information Protection section of the Annual Security Survey Program and the classification self-assessment program. I suggest looking at combining the two processes to reduce duplication of effort.

Response:

Accept with Modifications Added a paragraph: If a portion of the self-assessment or evaluation was completed as part of a security survey or another required report, the report may cite the report that fulfills the requirement and attach the appropriate information to the report submitted.

2. CLASSIFICATION DECISION REVIEW REQUIREMENTS**Suggested comment from Jennifer Kelley for Headquarters SC**

Paragraph 2a Coverage says Decision Reviews required only for the PCO or COs organization. 2d brings in sub-organizations. Is this meant to mean sub-organizations within the organization or subordinate field elements and contractors. The previous section on self-assessments requires them for the organization and all subordinate field elements. It is confusing whether the coverage for Decision Reviews is the same as Self-assessments or the coverage is limited the COs organization.

Response:

Accept Removed suborganizations

3. CORRECTIVE ACTIONS**Suggested comment from Jennifer Kelley for Headquarters SC**

There is no mention of who tracks and closes out the corrective actions. Will there be a database that needs updating? What would be the frequency of status reports on the progress of the corrective actions?

Response:

Reject

The Office of Classification tracks corrective actions. Apart from OC tracking, local procedures determine how corrective actions are tracked. The order should not mandate local procedures.

4. AGENCY SELF-INSPECTION REQUIREMENTS UNDER 10 CFR PART 1045 and 32 CFR PART 2001**Suggested comment from Jennifer Kelley for Headquarters SC**

Paragraph 4a. Suggest inserting: "When conducted within the reporting period, Office of Independent Oversight inspections, Office of Enforcement reviews and federal survey activities that address classification requirements should be used to preclude redundant oversight activities."

Response:

Accept Added paragraph: If a portion of the self-assessment or evaluation was completed as part of a security survey or another required report, the report may cite the report that fulfills the requirement and attach the appropriate information to the report submitted.

ATTACHMENT 6. CLASSIFICATION EDUCATION PROGRAM

1. CLASSIFICATION AWARENESS BRIEFINGS FOR EMPLOYEES AUTHORIZED ACCESS TO CLASSIFIED INFORMATION**Suggested comment from Cathy Tullis for Headquarters NA****Included comments:****Diana Tamayo for NA-80 Counterterrorism and Counterproliferation**

NA-80 recommendation:

Topical matter should include proper marking of draft documents (presumed to include classified information) for those who are not derivative classifiers. An examples should include proper use of "NOFORN" marking. "NOFORN" is commonly misapplied by people in this and other offices. Attempts to formally resolve this have not been sufficiently addressed.

Response:

Reject Marking is covered in DOE Order 471.6, Admin Chng 1, Information Security.

2. CLASSIFICATION TRAINING REQUIREMENTS FOR CLASSIFICATION OFFICIALS**ATTACHMENT 7. FREEDOM OF INFORMATION ACT/PRIVACY ACT AND MANDATORY DECLASSIFICATION REVIEW REQUIREMENTS****1. FREEDOM OF INFORMATION ACT/PRIVACY ACT REVIEWS****Major comment from Cathy Tullis for Headquarters NA****Included comments:****Henry Van Dyke for NA-General Counsel**

Will also require prior review for public release as to potential export control issues.

Response:

Accept with Modifications ECI is already covered under "unclassified information exempt from public release" - however, added e.g. that includes export controlled information, to ensure it is understood that is included.

2. MANDATORY DECLASSIFICATION REVIEW**Suggested comment from Cathy Tullis for Headquarters NA****Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

p.64, c. - "The response must also confirm that the document will be cleared for public release after all classified and exempt unclassified information is redacted."

Response:

Accept

Major comment from Cathy Tullis for Headquarters NA**Included comments:****Henry Van Dyke for NA-General Counsel**

Before release into OpenNet, needs to be reviewed for export control concerns.

Response:

Accept with Modifications ECI is already covered under "unclassified information exempt from public release" - however, added e.g. that includes export controlled information, to ensure it is understood that is included.

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

p.65, (5) - Move "responds to the requester" to (7) -- The response is a action separate from the redaction.

Response:

Accept

ATTACHMENT 8. BRACKETING AND REDACTION PROCEDURES**Suggested comment from Cathy Tullis for Headquarters NA****Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

p.66, 1. c. (5) - Add "and identified with the originating agency."

Response:

Accept with Modifications Other-Agency brackets must be copied exactly without expansion and the denying agency and exemption identified.

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

Att 8, 2. b. - Add some disclaimer to the effect that "under the current state of software..." this is the only approved method. -- Possible future advances in redaction software could render this requirement moot. It doesn't seem prudent to require an Order change in that case.

Response:

Accept with Modifications Used language to indicate this is only one approved method, may be others: If a final electronic copy of a redacted document is required, the following method is approved.

ATTACHMENT 9. DEFINITIONS**Suggested comment from Cathy Tullis for Headquarters NA****Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

Attachment 9, 2.c.(1) - "Headquarters Classification Officer" be changed to "Program Classification Officer" -- Headquarters Classification Officer is not mentioned elsewhere in the document. The mention of NNSA Program Officer suggests that maybe that is the term to be used here

Response:

Reject HQ CO is addressed under responsibilities of Director, Office of Classification and NNSA

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****SME rmcinto@sandia.gov**

The definition of a document now includes email in the parenthetical. This seems to be intended to provide clarification that email is intended to be treated in the same manner as a document with respect to review requirements. Since emails have historically been treated differently from documents in the electronic environment, perhaps it would be useful to include a paragraph specific to email within the Order to clearly and distinctly identify the intended review and marking requirements and to identify process and options for review.

Response:

Reject email is specifically cited due to the IG report stating DOE does not mark NSI email appropriately. The citation gives emphasis to the fact they must be appropriately marked.

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

p.70, p. - "A declassification review of a specified document... or a specified document containing NSI..."

Response:

Accept

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

p.70, u. - Add "and unclassified information provided to Congress."

Response:

Accept with Modifications

used information provided to Congress

Suggested comment from Cathy Tullis for Headquarters NA**Included comments:****Vanessa Scott for NA-70 Defense Nuclear Security**

p.70, z. - "The removal of certain information from the RD category under section 142 of the Atomic Energy Act to (1) the FRD category based on joint determination between DOE and the Department of Defense or (2) Transclassified Foreign Nuclear Information category based on joint determination between DOE and the Director of National Intelligence (formerly the Director of Central Intelligence).

Response:

Accept

Suggested comment from Jennifer Kelley for Headquarters SC

Attachment 9 DEFINITIONS - Add New definition:

Legacy Document. A document that has not been widely disseminated, that pre-dates the establishment of certain United States regulations, International Regimes, Treaties, including current unclassified controlled categories such as Export Controlled Information (ECI), Unclassified Controlled Nuclear Information (UCNI), Official Use Only (OUO), and information as defined in E.O. 13556 Controlled Unclassified Information (CUI); and requires an evaluation for review for sensitive (classified/CUI) information prior to public release. Legacy documents typically reside in central collections/files and are typically hardcopy or microform (e.g. microfiche, etc.).

Response:

Reject the definition as written does not reflect all aspects of legacy documents (they may be legacy documents because the organization no longer exists). Documents that post-date current categories may also be legacy documents. Legacy documents are not specifically addressed in the order, so there is no need for a definition. This order would also not be the appropriate order to define legacy documents.